

Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-4683
Fax: 571-273-0042

Paper 3
Filed: September 14, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JOHN EMERY, KB TAN, ALEM TRUNEH,
AND PETER YOUNG
Junior Party
(U.S. Patent 5,885,800),

v.
REINER GENTZ, REINHARD EBNER, GUO-LIANG YU,
STEVEN M. RUBEN, JIAN NI AND PING FENG
Senior Party
(U.S. Patent Application 09/006,352).

Patent Interference No. 105,701 (MPT)
(Technology Center 1600)

JUDGMENT – PRIORITY – Bd. R. 127(b)

Before: RICHARD TORCZON, SALLY C. MEDLEY, and MICHAEL P. TIERNEY,
Administrative Patent Judges.

TIERNEY, *Administrative Patent Judge.*

- 1 A conference call was held on September 9, 2009 including:
2 1. Elizabeth Hecht, counsel for Emery

1 2. Mark Hyman, counsel for Gentz, and

2 3. Michael Tierney, Administrative Patent Judge

3 During the conference call Emery requested adverse judgment as to Count 1,
4 the sole count in interference.¹ The request is granted as follows:

5 It is:

6 Ordered that judgment is entered against Junior Party Emery for Count 1.

7 Further Ordered that the involved claims of Emery, claims 2, 4-8 and 11-
8 16, are CANCELED, 35 U.S.C. §135(a).

9 Further Ordered that a copy of this judgment be entered in the
10 administrative records of the involved U.S. Patent 5,885,800 and U.S. Application
11 09/006,352.

¹ NOTICE: "Any agreement or understanding between parties to an interference, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the interference, shall be in writing and a true copy thereof filed in the Patent and Trademark Office before the termination of the interference as between the said parties to the agreement or understanding." 35 U.S.C. 135(c); see also Bd.R. 205 (settlement agreements).

cc (via overnight delivery):
Attorney for Emery:
Elizabeth Hecht, Esq.
SmithKline Beecham Corporation
2200 Renaissance Blvd.
King of Prussia, PA 19406-2755
Attorney for Gentz:
Mark Hyman, Esq.
Human Genome Sciences, Inc.
Intellectual Property Department
14200 Shady Grove Road
Rockville, MD 20850